

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

DAVID B. MERRITT, M.D.,
Plaintiff,

v.

BLACK RIVER MEMORIAL HOSPITAL, INC.,
Defendant.

Case No. 10-cv-00840-wmc

RULE 26(F) JOINT WRITTEN REPORT AND DISCOVERY PLAN

Pursuant to FRCP 26(f), counsel for all parties to this action conferred on March 14, 2011, and again on April 1, 2011. The parties now submit this Fed. R. Civ. 26(f) Joint Report and Discovery Plan.

FED. R. CIV. P. 26(f) REPORT

Nature of the Case

This is an action brought by plaintiff under 38 U.S.C. §4301 *et seq.*, otherwise known as the Uniform Services Employment and Reemployment Rights Act (“USERRA”), alleging, among other things, that he was discharged without cause from his employment in violation of Act.

Motions Which Are Contemplated

Plaintiff anticipates filing a motion to join additional named defendant(s). The parties anticipate filing dispositive motions.

Discovery and Approximate Time for Completion

To date, the parties have not engaged in discovery. Parties anticipate there will be written discovery and possibly deposition discovery that will require approximately nine months to complete. The parties do not anticipate changing any of the limits set forth in the rules. The parties agree they will work cooperatively with each other before seeking modification to such limits.

Initial Disclosures and Potential Changes

The parties propose no changes to the substance or timing of Rule 26(a) disclosures.

Electronically Stored Information

The parties have conferred and cannot agree on a format for the production of electronically stored information. The parties will seek the Court's guidance on this issue, if necessary.

Other Matters that Affect Further Scheduling for Final Disposition

Plaintiff prefers simultaneous disclosure of expert witnesses, followed by a thirty day disclosure of rebuttal witnesses. Defendant prefers a staggered disclosure of expert witnesses, with plaintiff naming experts first, then defendant, and then rebuttal expert witnesses.

Whether Settlement Discussions Have Occurred

The parties agree it would be worthwhile to attempt some form of ADR.

Basis for the Court's Subject Matter Jurisdiction.

Plaintiff alleges subject matter jurisdiction based upon federal question jurisdiction, specifically 38 U.S.C. §§ 4323(b)(3) and 4323(i).

DISCOVERY PLAN

The schedule set forth below anticipates a trial date of approximately April 2012. Both parties anticipate the need for expert witnesses.

EVENT	DEADLINE
Motion to Amend/Add Parties	May 20, 2011
Disclosure of Witnesses	To be determined
Discovery Cutoff	December 15, 2011
Dispositive Motions	Filed by January 15, 2011
Pretrial Report	30 days before trial.
Trial (5 Days)	To be determined.

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Attorneys for Defendant Black River Memorial Hospital

Date: April 1, 2011.

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Date: April 1, 2011.

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